

MARASHI LEGAL

CIVIL RIGHTS LAW + POLICY

P. JENNY MARASHI, ESQ.
930 Grand Concourse #1E
Bronx, NY 10451
marashi.legal@gmail.com
+1-917-703-1742

September 7, 2021

BY E.C.F.

Hon. Andrew T. Baxter, U.S. Magistrate Judge
Federal Building and U.S. Courthouse
P.O. Box 7396
Syracuse, NY 13261-7396

Re: *Sparks v. Holland, et al*
19-cv-01269-MAD-ATB
Motion to Compel Discovery Responses

Your Honor:

I represent Mr. Yusuf Sparks, Plaintiff in the above captioned case. I am writing to inform the Court that all Defendants have yet to respond to any of Plaintiff's Document Requests, Interrogatories, Requests for Admission or a DOCCS Subpoena that were sent out on February 3, 2021, and due on March 29, 2021 (an extra 30 days, beyond what is required under FRCP 33, in light of COVID delays). Due to this inordinate delay, and dozens of futile attempts by Plaintiff to resolve this issue amongst counsel, Plaintiff requests a conference to make a Motion to Compel Defendants to respond under FRCP 37(a)(2)(B), and awarding reasonable attorneys fees, under FRCP 37(a)(5), including in making this motion.

Plaintiff's counsel has been in contact with Counsel from the Attorney General's Office. We have, under the NDNY Local Rule 37.1(b) conferred many times. Below is a summary of such communication :

- In the begining of April 2021, Mr. Abel – then counsel on case- contacted me to request an extension -which I was happy to accomodate- and to let me know the responses were almost complete and that while he was leaving the AG Office, a paralegal was going to send the responses shortly.
- May 15, 2021: I sent an email to Mr. Abel following up. No response.
- May 25, 2021: a Notice of Appearance was submitted by Ms. Hildonen, who had served as counsel on this case prior to Mr. Abel.
- May 31, 2021: I wrote to Ms. Hildonen inquiring as to the status of the responses. No response.
- June 3, 2021: I followed up. Ms. Hildonen responded that she will look at the status of discovery and may need more time since file was transferred.
- June 3, 2021: I responded to her email and asked approximately what date she would be able to respond. No response.

MARASHI LEGAL

CIVIL RIGHTS LAW + POLICY

P. JENNY MARASHI, ESQ.
930 Grand Concourse #1E
Bronx, NY 10451
marashi.legal@gmail.com
+1-917-703-1742

- June 22, 2021: I followed up with Ms. Hildonen, again asking for some date for when they expect to respond, and including I would write the Court if I do not hear back by June 25. No response.
- June 24, 2021: I followed up with Ms. Hildonen. Ms. Hildonen responded that Defendants will have the responses by July 16, 2021.
- June 24, 2021: I followed up that Defendants can have until July 19th, and requested dates for depositions. There was no response to the request for deposition dates.
- July 17, 2021: Ms. Hildonen responded that Defendants needed two more weeks. Plaintiff agreed that day.
- August 9, 2021: I followed up to inquire about the responses that still had not been submitted.
- August 13, 2021 Ms. Hildonen responded that she would like to set up a call for August 18, 2021. I responded that day that we could.
- August 18, 2021: I called at the arranged time, and there was no response.
- August 18, 2021: I sent an email arranging another time later in the day, or another date for the call, and leaving my availability.
- August 18, 2021: Ms. Hildonen wrote back apologizing and suggesting another date for a call. I responded that day, accepting.
- August 19, 2021: Ms. Hildonen wrote me saying Defendants still need more time, and suggesting that Defendants write to court and ask for extensions. I responded that day that Plaintiff, who has never opposed extensions, would not consent to any further extensions. Such being due to the five month delay. I also suggested, that given the strength of the evidence in the case, and the apparent lag in response for whatever indeterminate reason, and the unheard of delay by Defendants, perhaps a settlement conference would be useful. There has been no response.
- August 31, 2021, Plaintiff followed up, received an out of office message for a return on September 7, 2021.

In each email and communication, the tone between counsel has been consistently polite, professional, and accomodating. However, given the massive delay and the upcoming discovery deadlines, Plaintiff is sending this letter seeking this Court's intervention.

Plaintiff thanks the Court for its consideration of his request.

Respectfully submitted,

/s/
P. Jenny Marashi
For Plaintiff Yusuf Sparks

cc: Kasey Hildonen (by ECF)